THE HON'BLE SMT. JUSTICE T. MEENA KUMARI
and
THE HON'BLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No. 16027 of 2007

O R D E R: (Per the Hon'ble Smt. Justice T. Meena Kumari)

This writ petition is filed challenging the order dated 19.2.2007 passed by the Central Administrative Tribunal, Hyderabad Bench in O.A. No. 1263 of 2003.

Heard the learned counsel for the parties and perused the material available on record.

The contention of the learned counsel for the petitioner is that though the petitioner submitted leave application on 6.1.1999 for sanction of leave, the Divisional Personnel Officer has issued Charge Sheet dated 17.5.1999 alleging that the petitioner was unauthorisedly absent from service from 6.1.199 to 10.3.199. The petitioner was also issued with another charge sheet dated 20.9.1999 alleging that he is responsible for possession of the documents which are not supposed to be in his possession. The case of the petitioner is that the duplicate keys are available with the office Superintendent II Sri H.R. Godbole and the petitioner was not at all working in the office since 6.1.1999. It is further contended that though there is no evidence against the petitioner, the enquiry officer submitted enquiry report on 7.11.2000 proving the charge against the petitioner to certain extent and the Divisional Personnel Officer vide proceedings No. CP/Con/227/V/Pers/SK/99 dated 22.11.2000 directed the petitioner to submit his representation duly supplying the enquiry officer's report, but the Divisional Personnel Officer without

considering the points raised by the petitioner and without any basis has simply passed removal order dated 27.2.2001 and the appeal filed by the petitioner was also dismissed by the 2nd respondent vide proceedings No. CP/Con/227/V/Pers/SK 99 dated 6.7.2001 and the revisional authority, too, is misguided by the findings of the disciplinary authority and the appellate authority. The learned counsel for the petitioner further contended that the Tribunal failed to appreciate the material available on record in a proper perspective and though there are several defects in the enquiry proceedings and in passing the removal order against the petitioner, the Tribunal erred in dismissing the O.A. filed by the petitioner.

Having heard the learned counsel for the parties, we have once again gone through the material available on record. A perusal of the same would disclose that the same grounds as raised in the writ petition were raised by the petitioner before the appellate authority, revisional authority and before the Tribunal. The disciplinary authority while passing the penalty order No. 17 of 2001 vide Proceedings No. CP/Con/227/V.Pers/SK/99 dated 27.2.2001 has discussed the points raised by the petitioner and given the detail reasons. Though it is contended by the learned counsel for the petitioner that reasonable opportunity has not been given to the petitioner, the material available on record discloses that he had been given ample opportunity to represent his case and except stating that the petitioner had not been given reasonable opportunity nothing has been stated as to how he has been denied reasonable opportunity. The counter filed by the respondent before the Tribunal further discloses that the petitioner remained absent unauthorisedly from duty during the period from 6.1.1999 to 10.3.1999 i.e. for 64 days without prior permission of leave by the competent authority. The

petitioner submitted explanation dated 24.5.1999 to the charge sheet and an inquiry was held and no action was taken on the inquiry report. However, during the CBI investigation, an inventory was taken place in the PNM Section of the office of the Sr. DPO, Secunderabad on 1.3.1999 and certain documents were found in the drawer and cup board of the applicant which were not supposed to be in the drawer and cup board of the applicant. The contention of the learned counsel for the petitioner is that the said inventory was prepared in the absence of the petitioner. The said point was raised by the petitioner before the appellate and revisional authorities and the said authorities have considered and rejected the same. It was also observed by the appellate and revisional authorities that while answering question No.26, PW-2 Sri K. Ponnuswami stated that he has directed Sri Godbole to conduct the inventory and that PW-1 Sri Godbole, while answering question No.5, has confirmed that the statement (Inventory dated 1.3.1999) is in his handwriting and signed by him and therefore Sri Godbole cannot say that he has not made the inventory of the items found in the drawer and almirah of the D.E.

As rightly observed by the Tribunal, it is well settled by the apex Court that the Tribunal or the Court is not a Court of appeal over the findings of the authorities holding a departmental enquiry against a public servant and it is only concerned to determine whether the enquiry is held by an authority competent in that behalf and according to the procedure prescribed in that behalf and whether the rules of natural justice are violated, findings are based on evidence and/or the punishment is shockingly disproportionate to the proved misconduct of an employee. Having perused the charge leveled against the petitioner and the findings given by the

disciplinary authority as confirmed by the appellate and revisional authorities with reference to the material available on record, this Court does not find that the punishment is disproportionate to the charge in view of the fact that it is not a case where reasonable opportunity was not afforded or due procedure was not followed. The Tribunal, in fact, has given cogent reasons in dismissing the O.A. Therefore, we do not find any illegality or irregularity in the order passed by the Tribunal warranting interference of this Court.

We find no merit in this writ petition. It is accordingly dismissed.

T. MEENA KUMARI, J.

G. CHANDRAIAH, J.

Date: 27-07-2007.

MVB.